

## ATTACHMENT I

### **Statutory Citations Relating to Amendment to 19 TAC Chapter 129, Student Attendance, Subchapter AA, Commissioner's Rules, §129.1025, Adoption by Reference: Student Attendance Accounting Handbook**

**Texas Education Code (TEC), Chapter 7, State Organization, Subchapter C, Commissioner of Education, §7.055, Commissioner of Education Powers and Duties (excerpt):**

- (b) (35) The commissioner shall perform duties in connection with the Foundation School Program as prescribed by Chapter 42.

**TEC, Chapter 25, Admission, Transfer, and Attendance, Subchapter C, Operation of Schools and School Attendance**

**TEC, §25.081, Operation of Schools, as amended by House Bill (HB) 441 and HB 2442, 85th Texas Legislature, Regular Session, 2017:**

- (a) Except as authorized under Subsection (b) of this section, Section 25.084, or Section 29.0821, for each school year each school district must operate ~~[so that the district provides]~~ for at least 75,600 minutes, including time allocated for ~~[of]~~ instruction, ~~[including]~~ intermissions, and recesses~~;~~ for students.
- (b) The commissioner may approve the operation of schools ~~[instruction of students]~~ for fewer than the number of minutes required under Subsection (a) if disaster, flood, extreme weather conditions, fuel curtailment, or another calamity causes the closing of schools.
- (c) If the commissioner does not approve reduced operation ~~[instruction]~~ time under Subsection (b), a school district may add additional minutes to the end of the district's normal school hours as necessary to compensate for minutes ~~[of instruction]~~ lost due to school closures caused by disaster, flood, extreme weather conditions, fuel curtailment, or another calamity.
- (d) The commissioner may adopt rules to implement this section, including rules:
  - (1) for the application, on the basis of the minimum minutes of operation ~~[instruction]~~ required by Subsection (a), of any provision of this title that refers to a minimum number of days of instruction under this section;
  - (2) to determine the minutes of operation that are equivalent to a day;
  - (3) defining minutes of operation and instructional time; and
  - (4) establishing the minimum number of minutes of instructional time required for a full-day and a half-day program to meet the time requirements under Subsection (a).
- (e) A school district or education program is exempt from the minimum minutes of operation requirement if the district's or program's average daily attendance is calculated under Section 42.005(j) [For purposes of this code, a reference to a day of instruction means 420 minutes of instruction].

*Text of subsection (f) as added by HB 441, 85th Texas Legislature, 2017:*

- (f) A school district may not provide student instruction on Memorial Day. If a school district would be required to provide student instruction on Memorial Day to compensate for minutes of instruction lost because of school closures caused by disaster, flood, extreme weather conditions,

fuel curtailment, or another calamity, the commissioner shall approve the instruction of students for fewer than the number of minutes required under Subsection (a).

*Text of subsection (f) as added by HB 2442, 85th Texas Legislature, 2017:*

- (f) The commissioner may proportionally reduce the amount of funding a district receives under Chapter 41, 42, or 46 and the average daily attendance calculation for the district if the district operates on a calendar that provides fewer minutes of operation than required under Subsection (a).

**TEC, §25.0812, Last Day of School:**

- (a) Except as provided by Subsection (b), a school district may not schedule the last day of school for students for a school year before May 15.
- (b) Notwithstanding Subsection (a), a school district that does not offer each grade level from kindergarten through grade 12 and whose prospective or former students generally attend school in another state for the grade levels the district does not offer may schedule the last day of school on any date permitted under Subsection (a) or the law of the other state.

**TEC, §25.087, Excused Absences, as amended by Senate Bill (SB) 1152, 85th Texas Legislature, Regular Session, 2017:**

- (a) A person required to attend school, including a person required to attend school under Section 25.085(e), may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or superintendent of the school in which the person is enrolled.
- (b) A school district shall excuse a student from attending school for:
  - (1) the following purposes, including travel for those purposes:
    - (A) observing religious holy days;
    - (B) attending a required court appearance;
    - (C) appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship;
    - (D) taking part in a United States naturalization oath ceremony;
    - (E) serving as an election clerk; or
    - (F) if the student is in the conservatorship of the Department of Family and Protective Services, participating, as determined and documented by the department, in an activity:
      - (i) ordered by a court under Chapter 262 or 263, Family Code, provided that it is not practicable to schedule the participation outside of school hours; or
      - (ii) required under a service plan under Subchapter B, Chapter 263, Family Code; or
  - (2) a temporary absence resulting from an appointment with health care professionals for the student or the student's child if the student commences classes or returns to school on the same day of the appointment.
- (b-1) A school district may adopt a policy excusing a student from attending school for service as a student early voting clerk in an election.

- (b-2) A school district may excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that:
- (1) the district may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and
  - (2) the district adopts:
    - (A) a policy to determine when an absence will be excused for this purpose; and
    - (B) a procedure to verify the student's visit at the institution of higher education.
- (b-3) A temporary absence for purposes of Subsection (b)(2) includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health care practitioner, as described by Section 1355.015(b), Insurance Code, to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy.
- (b-4) A school district shall excuse a student whose parent, stepparent, or legal guardian is an active duty member of the uniformed services as defined by Section 162.002 and has been called to duty for, is on leave from, or immediately returned from continuous deployment of at least four months outside the locality where the parent, stepparent, or guardian regularly resides, to visit with the student's parent, stepparent, or guardian. A school district may not excuse a student under this subsection more than five days in a school year. An excused absence under this subsection must be taken:
- (1) not earlier than the 60th day before the date of deployment; or
  - (2) not later than the 30th day after the date of return from deployment.
- (b-5) A school district shall excuse a student who is 17 years of age or older from attending school to pursue enlistment in a branch of the armed services of the United States or the Texas National Guard, provided that:
- (1) the district may not excuse for this purpose more than four days of school during the period the student is enrolled in high school; and
  - (2) the district verifies the student's activities related to pursuing enlistment in a branch of the armed services or the Texas National Guard.
- (b-6) Each school district shall adopt procedures to verify a student's activities as described by Subsection (b-5).
- (c) A school district may excuse a student in grades 6 through 12 for the purpose of sounding "Taps" at a military honors funeral held in this state for a deceased veteran.
- (d) A student whose absence is excused under Subsection (b), (b-1), (b-2), (b-4), (b-5), or (c) may not be penalized for that absence and shall be counted as if the student attended school for purposes of calculating the average daily attendance of students in the school district. A student whose absence is excused under Subsection (b), (b-1), (b-2), (b-4), (b-5), or (c) shall be allowed a reasonable time to make up school work missed on those days. If the student satisfactorily completes the school work, the day of absence shall be counted as a day of compulsory attendance.
- (e) A school district may excuse a student for the purposes provided by Subsections (b)(1)(E) and (b-1) for a maximum of two days in a school year.

**TEC, §29.0822, Optional Flexible School Day Program, as amended by HB 2442 and HB 3706, 85th Texas Legislature, Regular Session, 2017 (excerpts):**

- (a) Notwithstanding Section 25.081 or 25.082, a school district may apply to the commissioner to provide a flexible school day program for students who:
  - (1) have dropped out of school or are at risk of dropping out of school as defined by Section 29.081;
  - (2) attend a campus that is implementing an innovative redesign of the campus or an early college high school under a plan approved by the commissioner; or
  - (3) as a result of attendance requirements under Section 25.092, will be denied credit for one or more classes in which the students have been enrolled.
- (b) To enable a school district to provide a program under this section that meets the needs of students described by Subsection (a), a school district that meets application requirements may:
  - (1) provide flexibility in the number of hours each day a student attends;
  - (2) provide flexibility in the number of days each week a student attends; ~~[or]~~
  - (3) allow a student to enroll in less than or more than a full course load; or
  - (4) allow a student to enroll in a dropout recovery program in which courses are conducted online.
- (c) Except in the case of a course designed for a student described by Subsection (a)(3), or enrolled in a course described by Subsection (b)(4), a course offered in a program under this section must provide for at least the same number of instructional hours as required for a course offered in a program that meets the required minimum number of minutes of operation ~~[instructional days]~~ under Section 25.081 ~~[and the required length of school day under Section 25.082].~~

**TEC, Chapter 30A, State Virtual School Network, Subchapter D, Funding, §30A.153, Foundation School Program Funding:**

- (a) Subject to the limitation imposed under Subsection (a-1), a school district or open-enrollment charter school in which a student is enrolled is entitled to funding under Chapter 42 or in accordance with the terms of a charter granted under Section 12.101 for the student's enrollment in an electronic course offered through the state virtual school network in the same manner that the district or school is entitled to funding for the student's enrollment in courses provided in a traditional classroom setting, provided that the student successfully completes the electronic course.
- (a-1) For purposes of Subsection (a), a school district or open-enrollment charter school is limited to the funding described by that subsection for a student's enrollment in not more than three electronic courses during any school year, unless the student is enrolled in a full-time online program that was operating on January 1, 2013.
- (b) The commissioner, after considering comments from school district and open-enrollment charter school representatives, shall adopt a standard agreement that governs the costs, payment of funds, and other matters relating to a student's enrollment in an electronic course offered through the state virtual school network. The agreement may not require a school district or open-enrollment charter school to pay the provider the full amount until the student has successfully completed the electronic course, and the full amount may not exceed the limits specified by Section 30A.105(b).
- (c) A school district or open-enrollment charter school shall use the standard agreement adopted under Subsection (b) unless:

- (1) the district or school requests from the commissioner permission to modify the standard agreement; and
- (2) the commissioner authorizes the modification.
- (d) The commissioner shall adopt rules necessary to implement this section, including rules regarding attendance accounting.

**TEC, Chapter 42, Foundation School Program, Subchapter A, General Provisions**

**TEC, §42.004, Administration of the Program:**

The commissioner, in accordance with the rules of the State Board of Education, shall take such action and require such reports consistent with this chapter as may be necessary to implement and administer the Foundation School Program.

**TEC, §42.005, Average Daily Attendance, as amended by SB 2084 and HB 2442, 85th Texas Legislature, Regular Session, 2017:**

- (a) In this chapter, average daily attendance is:
  - (1) the quotient of the sum of attendance for each day of the minimum number of days of instruction as described under Section 25.081(a) divided by the minimum number of days of instruction;
  - (2) for a district that operates under a flexible year program under Section 29.0821, the quotient of the sum of attendance for each actual day of instruction as permitted by Section 29.0821(b)(1) divided by the number of actual days of instruction as permitted by Section 29.0821(b)(1); ~~or~~
  - (3) for a district that operates under a flexible school day program under Section 29.0822, the average daily attendance as calculated by the commissioner in accordance with Sections 29.0822(d) and (d-1); or
  - (4) for a district that operates a half-day program, one-half of the average daily attendance calculated under Subdivision (1).
- (b) A school district that experiences a decline of two percent or more in average daily attendance shall be funded on the basis of:
  - (1) the actual average daily attendance of the preceding school year, if the decline is the result of the closing or reduction in personnel of a military base; or
  - (2) subject to Subsection (e), an average daily attendance not to exceed 98 percent of the actual average daily attendance of the preceding school year, if the decline is not the result of the closing or reduction in personnel of a military base.
- (c) The commissioner shall adjust the average daily attendance of a school district that has a significant percentage of students who are migratory children as defined by 20 U.S.C. Section 6399.
- (d) The commissioner may adjust the average daily attendance of a school district in which a disaster, flood, extreme weather condition, fuel curtailment, or other calamity has a significant effect on the district's attendance.
- (e) For each school year, the commissioner shall adjust the average daily attendance of school districts that are entitled to funding on the basis of an adjusted average daily attendance under Subsection (b)(2) so that:

- (1) all districts are funded on the basis of the same percentage of the preceding year's actual average daily attendance; and
  - (2) the total cost to the state does not exceed the amount specifically appropriated for that year for purposes of Subsection (b)(2).
- (f) An open-enrollment charter school is not entitled to funding based on an adjustment under Subsection (b)(2).
- (g) If a student may receive course credit toward the student's high school academic requirements and toward the student's higher education academic requirements for a single course, including a course provided under Section 28.009 by a public institution of higher education, the time during which the student attends the course shall be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance for purposes of this section.
- (g-1) The commissioner shall adopt rules to calculate average daily attendance for students participating in a blended learning program in which classroom instruction is supplemented with applied workforce learning opportunities, including participation of students in internships, externships, and apprenticeships.
- (h) Subject to rules adopted by the commissioner under Section 42.0052(b), time that a student participates in an off-campus instructional program approved under Section 42.0052(a) shall be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance for purposes of this section.
- (i) A district or a charter school operating under Chapter 12 that operates a prekindergarten program is eligible to receive one-half of average daily attendance under Subsection (a) if the district's or charter school's prekindergarten program provides at least 32,400 minutes of instructional time to students.
- (j) A district or charter school is eligible to earn full average daily attendance under Subsection (a) if the district or school provides at least 43,200 minutes of instructional time to students enrolled in:
  - (1) a dropout recovery school or program operating under Section 12.1141(c) or Section 39.0548;
  - (2) an alternative education program operating under Section 37.008;
  - (3) a school program located at a day treatment facility, residential treatment facility, psychiatric hospital, or medical hospital;
  - (4) a school program offered at a correctional facility; or
  - (5) a school operating under Section 29.259.
- (k) A charter school operating under a charter granted under Chapter 12 before January 1, 2015, is eligible to earn full average daily attendance under Subsection (a), as that subsection existed immediately before January 1, 2015, for:
  - (1) all campuses of the charter school operating before January 1, 2015; and
  - (2) any campus or site expansion approved on or after January 1, 2015, provided that the charter school received an academic accountability performance rating of C or higher, and the campus or site expansion is approved by the commissioner.
- (l) A school district campus or charter school described by Subsection (j) may operate more than one program and be eligible for full average daily attendance for each program if the programs

operated by the district campus or charter school satisfy all applicable state and federal requirements.

- (m) The commissioner shall adopt rules necessary to implement this section, including rules that:
- (1) establish the minimum amount of instructional time per day that allows a school district or charter school to be eligible for full average daily attendance, which may differ based on the instructional program offered by the district or charter school;
  - (2) establish the requirements necessary for a school district or charter school to be eligible for one-half of average daily attendance, which may differ based on the instructional program offered by the district or charter school; and
  - (3) proportionally reduce the average daily attendance for a school district if any campus or instructional program in the district provides fewer than the required minimum minutes of instruction to students.
- (n) To assist school districts in implementing this section as amended by H.B. 2442, Acts of the 85th Legislature, Regular Session, 2017, or similar legislation, the commissioner may waive a requirement of this section or adopt rules to implement this section. This subsection expires at the end of the 2018-2019 school year.

**TEC, Chapter 42, Foundation School Program, Subchapter C, Special Allotments**

**TEC, §42.151, Special Education:**

- (a) For each student in average daily attendance in a special education program under Subchapter A, Chapter 29, in a mainstream instructional arrangement, a school district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 1.1. For each full-time equivalent student in average daily attendance in a special education program under Subchapter A, Chapter 29, in an instructional arrangement other than a mainstream instructional arrangement, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight determined according to instructional arrangement as follows:
- |   |     |
|---|-----|
| Homebound   | 5.0 |
| Hospital class                                    | 3.0 |
| Speech therapy                                    | 5.0 |
| Resource room                                     | 3.0 |
| Self-contained, mild and moderate, regular campus | 3.0 |
| Self-contained, severe, regular campus            | 3.0 |
| Off home campus                                   | 2.7 |
| Nonpublic day school                              | 1.7 |
| Vocational adjustment class                       | 2.3 |
- (b) A special instructional arrangement for students with disabilities residing in care and treatment facilities, other than state schools, whose parents or guardians do not reside in the district providing education services shall be established under the rules of the State Board of Education. The funding weight for this arrangement shall be 4.0 for those students who receive their education service on a local school district campus. A special instructional arrangement for students with disabilities residing in state schools shall be established under the rules of the State Board of Education with a funding weight of 2.8.

- (c) For funding purposes, the number of contact hours credited per day for each student in the off home campus instructional arrangement may not exceed the contact hours credited per day for the multidistrict class instructional arrangement in the 1992-1993 school year.
- (d) For funding purposes the contact hours credited per day for each student in the resource room; self-contained, mild and moderate; and self-contained, severe, instructional arrangements may not exceed the average of the statewide total contact hours credited per day for those three instructional arrangements in the 1992-1993 school year.
- (e) The State Board of Education by rule shall prescribe the qualifications an instructional arrangement must meet in order to be funded as a particular instructional arrangement under this section. In prescribing the qualifications that a mainstream instructional arrangement must meet, the board shall establish requirements that students with disabilities and their teachers receive the direct, indirect, and support services that are necessary to enrich the regular classroom and enable student success.
- (f) In this section, "full-time equivalent student" means 30 hours of contact a week between a special education student and special education program personnel.
- (g) The State Board of Education shall adopt rules and procedures governing contracts for residential placement of special education students. The legislature shall provide by appropriation for the state's share of the costs of those placements.
- (h) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in the special education program under Subchapter A, Chapter 29.
- (i) The agency shall encourage the placement of students in special education programs, including students in residential instructional arrangements, in the least restrictive environment appropriate for their educational needs.
- (j) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 494, Sec. 1, eff. September 1, 2011.
- (k) A school district that provides an extended year program required by federal law for special education students who may regress is entitled to receive funds in an amount equal to 75 percent, or a lesser percentage determined by the commissioner, of the adjusted basic allotment or adjusted allotment, as applicable, for each full-time equivalent student in average daily attendance, multiplied by the amount designated for the student's instructional arrangement under this section, for each day the program is provided divided by the number of days in the minimum school year. The total amount of state funding for extended year services under this section may not exceed \$10 million per year. A school district may use funds received under this section only in providing an extended year program.
- (l) From the total amount of funds appropriated for special education under this section, the commissioner shall withhold an amount specified in the General Appropriations Act, and distribute that amount to school districts for programs under Section 29.014. The program established under that section is required only in school districts in which the program is financed by funds distributed under this subsection and any other funds available for the program. After deducting the amount withheld under this subsection from the total amount appropriated for special education, the commissioner shall reduce each district's allotment proportionately and shall allocate funds to each district accordingly.

**TEC, §42.152, Compensatory Education Allotment:**

- (a) For each student who is educationally disadvantaged or who is a student who does not have a disability and resides in a residential placement facility in a district in which the student's parent or legal guardian does not reside, a district is entitled to an annual allotment equal to the adjusted



basic allotment multiplied by 0.2, and by 2.41 for each full-time equivalent student who is in a remedial and support program under Section 29.081 because the student is pregnant.

- (b) For purposes of this section, the number of educationally disadvantaged students is determined:
  - (1) by averaging the best six months' numbers of students eligible for enrollment in the national school lunch program of free or reduced-price lunches for the preceding school year; or
  - (2) in the manner provided by commissioner rule.
- (b-1) A student receiving a full-time virtual education through the state virtual school network may be included in determining the number of educationally disadvantaged students under Subsection (b) if the school district submits to the commissioner a plan detailing the enhanced services that will be provided to the student and the commissioner approves the plan.
- (c) Funds allocated under this section shall be used to fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Subchapter B, Chapter 39, or disparity in the rates of high school completion between students at risk of dropping out of school, as defined by Section 29.081, and all other students. Specifically, the funds, other than an indirect cost allotment established under State Board of Education rule, which may not exceed 45 percent, may be used to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081 or a disciplinary alternative education program established under Section 37.008, to pay the costs associated with placing students in a juvenile justice alternative education program established under Section 37.011, or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act, at a campus at which at least 40 percent of the students are educationally disadvantaged. In meeting the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081, a district's compensatory education allotment shall be used for costs supplementary to the regular education program, such as costs for program and student evaluation, instructional materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction. A home-rule school district or an open-enrollment charter school must use funds allocated under Subsection (a) for a purpose authorized in this subsection but is not otherwise subject to Subchapter C, Chapter 29. For purposes of this subsection, a program specifically designed to serve students at risk of dropping out of school, as defined by Section 29.081, is considered to be a program supplemental to the regular education program, and a district may use its compensatory education allotment for such a program.
- (c-1) Notwithstanding Subsection (c), funds allocated under this section may be used to fund in proportion to the percentage of students served by the program that meet the criteria in Section 29.081(d) or (g):
  - (1) an accelerated reading instruction program under Section 28.006(g); or
  - (2) a program for treatment of students who have dyslexia or a related disorder as required by Section 38.003.
- (c-2) Notwithstanding Subsection (c), funds allocated under this section may be used to fund a district's mentoring services program under Section 29.089.
- (d) The agency shall evaluate the effectiveness of accelerated instruction and support programs provided under Section 29.081 for students at risk of dropping out of school.
- (e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 105(a)(6), eff. September 1, 2009.

- (f) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 105(a)(6), eff. September 1, 2009.
- (g) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 105(a)(6), eff. September 1, 2009.
- (h) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 105(a)(6), eff. September 1, 2009.
- (i) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 105(a)(6), eff. September 1, 2009.
- (j) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 105(a)(6), eff. September 1, 2009.
- (k) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 105(a)(6), eff. September 1, 2009.
- (l) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 105(a)(6), eff. September 1, 2009.
- (m) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 105(a)(6), eff. September 1, 2009.
- (n) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 105(a)(6), eff. September 1, 2009.
- (o) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 105(a)(6), eff. September 1, 2009.
- (p) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 105(a)(6), eff. September 1, 2009.
- (q) The State Board of Education, with the assistance of the comptroller, shall develop and implement by rule reporting and auditing systems for district and campus expenditures of compensatory education funds to ensure that compensatory education funds, other than the indirect cost allotment, are spent only to supplement the regular education program as required by Subsection (c). The reporting requirements shall be managed electronically to minimize local administrative costs. A district shall submit the report required by this subsection not later than the 150th day after the last day permissible for resubmission of information required under Section 42.006.
- (q-1) The commissioner shall develop a system to identify school districts that are at high risk of having used compensatory education funds other than in compliance with Subsection (c) or of having inadequately reported compensatory education expenditures. If a review of the report submitted under Subsection (q), using the risk-based system, indicates that a district is not at high risk of having misused compensatory education funds or of having inadequately reported compensatory education expenditures, the district may not be required to perform a local audit of compensatory education expenditures and is not subject to on-site monitoring under this section.
- (q-2) If a review of the report submitted under Subsection (q), using the risk-based system, indicates that a district is at high risk of having misused compensatory education funds, the commissioner shall notify the district of that determination. The district must respond to the commissioner not later than the 30th day after the date the commissioner notifies the district of the commissioner's determination. If the district's response does not change the commissioner's determination that the district is at high risk of having misused compensatory education funds or if the district does not respond in a timely manner, the commissioner shall:
  - (1) require the district to conduct a local audit of compensatory education expenditures for the current or preceding school year;
  - (2) order agency staff to conduct on-site monitoring of the district's compensatory education expenditures; or
  - (3) both require a local audit and order on-site monitoring.
- (q-3) If a review of the report submitted under Subsection (q), using the risk-based system, indicates that a district is at high risk of having inadequately reported compensatory education expenditures, the commissioner may require agency staff to assist the district in following the proper reporting methods or amending a district or campus improvement plan under Subchapter F, Chapter 11. If the district does not take appropriate corrective action before the 45th day after

the date the agency staff notifies the district of the action the district is expected to take, the commissioner may:

- (1) require the district to conduct a local audit of the district's compensatory education expenditures; or
  - (2) order agency staff to conduct on-site monitoring of the district's compensatory education expenditures.
- (q-4) The commissioner, in the year following a local audit of compensatory education expenditures, shall withhold from a district's foundation school fund payment an amount equal to the amount of compensatory education funds the agency determines were not used in compliance with Subsection (c). The commissioner shall release to a district funds withheld under this subsection when the district provides to the commissioner a detailed plan to spend those funds in compliance with Subsection (c).
- (r) The commissioner shall grant a one-year exemption from the requirements of Subsections (q)-(q-4) to a school district in which the group of students who have failed to perform satisfactorily in the preceding school year on an assessment instrument required under Section 39.023(a), (c), or (l) subsequently performs on those assessment instruments at a level that meets or exceeds a level prescribed by commissioner rule. Each year the commissioner, based on the most recent information available, shall determine if a school district is entitled to an exemption for the following school year and notify the district of that determination.
- (t) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 105(a)(6), eff. September 1, 2009.
- (u) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 105(a)(6), eff. September 1, 2009.

**TEC, §42.153, Bilingual Education Allotment:**

- (a) For each student in average daily attendance in a bilingual education or special language program under Subchapter B, Chapter 29, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.1.
- (b) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in providing bilingual education or special language programs under Subchapter B, Chapter 29, and must be accounted for under existing agency reporting and auditing procedures.
- (c) A district's bilingual education or special language allocation may be used only for program and student evaluation, instructional materials and equipment, staff development, supplemental staff expenses, salary supplements for teachers, and other supplies required for quality instruction and smaller class size.

**TEC, §42.154, Career and Technology Education Allotment, as amended by SB 22 and HB 3593, 85th Texas Legislature, Regular Session, 2017:**

- (a) For each full-time equivalent student in average daily attendance in an approved career and technology education program in grades nine through 12 or in career and technology education programs for students with disabilities in grades seven through 12, a district is entitled to:
  - (1) an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.35; and
  - (2) \$50, if the student is enrolled in:
    - ~~[(A)]~~ two or more advanced career and technology education classes for a total of three or more credits~~[-or]~~

~~[(B) — an advanced course as part of a tech-prep program under Subchapter T, Chapter 64].~~

- (b) In this section:
  - (1) "Career and technology education class" and "career and technology education program" include a technology applications course on cybersecurity adopted or selected by the State Board of Education under Section 28.025(c-10).
  - (2) "Full-time [,"full-time] equivalent student" means 30 hours of contact a week between a student and career and technology education program personnel.
- (c) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in providing career and technology education programs in grades nine through 12 or career and technology education programs for students with disabilities in grades seven through 12 under Sections 29.182, 29.183, and 29.184.
- (d) The commissioner shall conduct a cost-benefit comparison between career and technology education programs and mathematics and science programs.
- (e) Out of the total statewide allotment for career and technology education under this section, the commissioner shall set aside an amount specified in the General Appropriations Act, which may not exceed an amount equal to one percent of the total amount appropriated, to support regional career and technology education planning. After deducting the amount set aside under this subsection from the total amount appropriated for career and technology education under this section, the commissioner shall reduce each district's tier one allotments in the same manner described for a reduction in allotments under Section 42.253.

**19 Texas Administrative Code Chapter 129, Student Attendance, Subchapter B, Student Attendance Accounting, §129.21, Requirements for Student Attendance Accounting for State Funding Purposes.**

- (a) All public schools in Texas must maintain records to reflect the average daily attendance (ADA) for the allocation of Foundation School Program (FSP) funds and other funds allocated by the Texas Education Agency (TEA). Superintendents, principals, and teachers are responsible to their school boards and to the state to maintain accurate, current attendance records.
- (b) The commissioner of education is responsible for providing guidelines and procedures for attendance accounting in accordance with state law.
- (c) The commissioner must provide for special circumstances regarding attendance accounting in accordance with the provisions of law.
- (d) The superintendent of schools is responsible for the safekeeping of all attendance records and reports. The superintendent of schools may determine whether the properly certified attendance records or reports for the school year are to be stored in the central office, on the respective school campuses of the district, or at another secure location. Regardless of where such records are stored, they must be readily available for audit by the TEA division responsible for performing school financial audits.
- (e) Districts must maintain records and make reports concerning student attendance and participation in special programs as required by the commissioner.
- (f) If a school district chooses to use a locally developed record or automated system, the record or automated system must contain the minimum information required by the commissioner.

- (g) A student must be enrolled for at least two hours of instruction to be considered in membership for one half day, and for at least four hours of instruction to be considered in membership for one full day.
- (h) Attendance for all grades must be determined by the absences recorded in the second or fifth instructional hour of the day, unless the local school board adopts a district policy, or delegates to the superintendent the authority to establish procedures, for recording absences in an alternative hour, or unless the students for which attendance is being taken are enrolled in and participating in an alternative attendance accounting program approved by the commissioner.
  - (1) Students enrolled on a half-day basis may earn only one half day of attendance each school day. Attendance is determined for these pupils by recording absences in a period during the half day that they are scheduled to be present. Students enrolled on a full-day basis may earn one full day of attendance each school day.
  - (2) Students who are enrolled in and participating in an alternative attendance accounting program approved by the commissioner will earn attendance according to the statutory and rule provisions applicable to that program.
  - (3) The established period in which absences are recorded may not be changed during the school year.
  - (4) Students absent at the time the attendance roll is taken, during the daily period selected, are counted absent for the entire day, unless the students are enrolled in and participating in an alternative attendance accounting program approved by the commissioner. Students present at the time the attendance roll is taken, during the daily period selected, are counted present for the entire day, unless the students are enrolled in and participating in an alternative attendance accounting program approved by the commissioner.
- (i) A student who is not actually in school at the time attendance is taken must not be counted in attendance for FSP funding purposes, unless the student is participating in an activity that meets the conditions set out in subsection (j) of this section, or unless the student is enrolled in and participating in an alternative attendance accounting program approved by the commissioner.
- (j) A student not actually on campus at the time attendance is taken may be considered in attendance for FSP funding purposes under the following conditions.
  - (1) The student is participating in an activity that is approved by the local board of school trustees and is under the direction of a member of the professional staff of the school district, or an adjunct staff member who:
    - (A) has a minimum of a bachelor's degree; and
    - (B) is eligible for participation in the Teacher Retirement System of Texas.
  - (2) The student is participating in a mentorship approved by district personnel to serve as one or more of the advanced measures needed to complete the Distinguished Achievement Program outlined in Chapter 74 of this title (relating to Curriculum Requirements).
  - (3) The student is absent for one of the purposes specified in the Texas Education Code (TEC), §25.087(b), (b-1), (b-2), (b-4), or (c). Excused days for travel under the TEC, §25.087(b)(1), are limited to not more than one day for travel to and one day for travel from the applicable site. A temporary absence excused under the TEC, §25.087(b)(2), must be supported by a document such as a note from the health care professional.
- (k) A student not actually on campus at the time attendance is taken also may be considered in attendance for FSP funding purposes under other conditions described in the handbook adopted

under §129.1025 of this title (relating to Adoption by Reference: Student Attendance Accounting Handbook) related to off-campus instruction.

- (1) Before a district or charter school may count a student in attendance under this section or in attendance when the student was allowed to leave campus during any part of the school day, the local school board or governing body must adopt a policy, or delegate to the superintendent the authority to establish procedures, addressing parental consent for a student to leave campus, and the district or charter school must distribute the policy or procedures to staff and to all parents of students in the district or charter school.